

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
 Plaintiff(s),  
 v.  
 LASR CLINIC OF SUMMERLIN, LLC, et  
 al.,  
 Defendant(s).

Case No.: 2:19-cv-00467-GMN-NJK

**ORDER**

[Docket No. 69]

Pending before the Court is the Government's motion for case-dispositive sanctions. Docket No. 69. Defendants filed responses in opposition. Docket Nos. 70-71.<sup>1</sup> The Government filed a reply. Docket No. 72.<sup>2</sup> The motion is properly resolved without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the motion is **DENIED** without prejudice.

The crux of the Government's motion is that Defendants have failed to file a rule-compliant answer despite being ordered to do so. *See* Docket No. 69 at 3. As a result of that shortcoming, the Government seeks an order striking Defendants' non-compliant answers, entering default, and entering default judgment in the amount of \$2,422,300.08. *See, e.g., id.* at 12.

---

<sup>1</sup> As they are proceeding *pro se*, the Court construes Defendants' filings liberally. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

<sup>2</sup> Without seeking leave to do so, Defendants filed a surreply. Docket No. 74. As it was improperly filed, the Court will not consider the surreply. Local Rule 7-2(b); *see also Sanchez v. Rodriguez*, 298 F.R.D. 460, 470 (C.D. Cal. Mar. 18, 2014) (collecting cases that *pro se* litigants are bound by governing rules).

As the Court discussed earlier, the relief being sought is a severe sanction. Docket No. 42 at 1 (citing *Hester v. Vision Airlines, Inc.*, 687 F.3d 1162, 1169 (9th Cir. 2012)). That is particularly true in this case given that the judgment sought is for millions of dollars. Given the severity of the sanction, the Court must consider, *inter alia*, whether lesser sanctions are available and the policy in favor of deciding cases on their merits. *See id.*

In this case, the record has been muddled with motion practice regarding relief from the bankruptcy stay and several filings by Defendants apparently in an attempt to respond to the complaint. This case has now been excepted from the bankruptcy stay. Docket No. 68. On February 9, 2021, United States District Judge Gloria M. Navarro denied Defendants' motion to dismiss for failure to join a party and motion to strike portions of the complaint. Docket No. 84. Concurrently herewith, the undersigned is also denying Defendants' motions for more definite statement. Hence, the procedural posture has now been clarified. Although the Court previously warned Defendants of the need to file a proper answer, Docket No. 42 at 2, given the circumstances of this case, the Court finds it is in the interest of justice to give Defendants one-final opportunity to file a proper answer. In an effort to ensure that a proper answer is filed, the Court further **ORDERS** that Defendants must file an answer using the form attached to this order (form Pro Se 3). Defendants must file an answer using this form by **March 3, 2021**.

The Court again **WARNS** Mr. Villasenor and Mr. Rogers that they must comply with this order, as well as all applicable rules and deadlines in this case. **THIS IS A FINAL WARNING. FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE IMPOSITION OF SIGNIFICANT SANCTIONS, UP TO AND INCLUDING CASE-DISPOSITIVE SANCTIONS.**

Subject to the above, the Government's motion for sanctions is **DENIED** without prejudice.

IT IS SO ORDERED.

Dated: February 9, 2021

  
Nancy J. Koppe  
United States Magistrate Judge

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

## UNITED STATES DISTRICT COURT

for the

District of

Division

Case No. \_\_\_\_\_

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one) ☐ Yes ☐ No

## THE DEFENDANT'S ANSWER TO THE COMPLAINT

**I. The Parties Filing This Answer to the Complaint**

Provide the information below for each defendant filing this answer or other response to the allegations in the plaintiff's complaint. Attach additional pages if needed.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City and County \_\_\_\_\_

State and Zip Code \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

**II. The Answer and Defenses to the Complaint****A. Answering the Claims for Relief**

On a separate page or pages, write a short and plain statement of the answer to the allegations in the complaint. Number the paragraphs. The answer should correspond to each paragraph in the complaint, with paragraph 1 of the answer corresponding to paragraph 1 of the complaint, etc. For each paragraph in the complaint, state whether: the defendant admits the allegations in that paragraph; denies the allegations; lacks sufficient knowledge to admit or deny the allegations; or admits certain allegations but denies, or lacks sufficient knowledge to admit or deny, the rest.

**B. Presenting Defenses to the Claims for Relief**

Write a short and plain statement identifying the defenses to the claims, using one or more of the following alternatives that apply.

1. The court does not have subject-matter jurisdiction over the claims because *(briefly explain why there is no federal-question jurisdiction or diversity-of-citizenship jurisdiction; see the complaint form for more information)*  
  
\_\_\_\_\_
2. The court does not have personal jurisdiction over the defendant because *(briefly explain)*  
  
\_\_\_\_\_
3. The venue where the court is located is improper for this case because *(briefly explain)*  
  
\_\_\_\_\_
4. The defendant was served but the process-the form of the summons-was insufficient because *(briefly explain)*  
  
\_\_\_\_\_
5. The manner of serving the defendant with the summons and complaint was insufficient because *(briefly explain)*  
  
\_\_\_\_\_
6. The complaint fails to state a claim upon which relief can be granted because *(briefly explain why the facts alleged, even if true, are not enough to show the plaintiff's right to recover)*  
  
\_\_\_\_\_
7. Another party *(name)* \_\_\_\_\_ needs to be joined (added) in the case. The reason is *(briefly explain why joining another party is required)*  
  
\_\_\_\_\_



- a. If the basis for subject-matter jurisdiction is diversity of citizenship, state the effect of adding the other party:  
 The other party is a citizen of the State of *(name)* \_\_\_\_\_.  
 Or is a citizen of *(foreign nation)* \_\_\_\_\_. The amount of damages sought from this other party is *(specify the amount)* \_\_\_\_\_.
- b. If the claim by this other party is based on an alleged violation of a federal constitutional or statutory right, state the basis:

### C. Asserting Affirmative Defenses to the Claims for Relief

Identify an affirmative defense or avoidance that provides a basis for the defendant to avoid liability for one or more of the plaintiff's claims even if the basis for the claim is met. Any affirmative defense or avoidance must be identified in the answer. Include any of the following that apply, as well as any others that may apply.

The plaintiff's claim for *(specify the claim)*

---

is barred by *(identify one or more of the following that apply)*:

1. Accord and satisfaction *(briefly explain)*

---

2. Arbitration and award *(briefly explain)*

---

3. Assumption of risk *(briefly explain)*

---

4. Contributory or comparative negligence of the plaintiff *(briefly explain)*

---

5. Duress *(briefly explain)*

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

---

6. Estoppel *(briefly explain)*

---

7. Failure of consideration *(briefly explain)*

---

8. Fraud *(briefly explain)*

---

9. Illegality *(briefly explain)*

---

10. Injury by fellow employee *(briefly explain)*

---

11. Laches (Delay) *(briefly explain)*

---

12. License *(briefly explain)*

---

13. Payment *(briefly explain)*

---

14. Release *(briefly explain)*

---

15. Res judicata *(briefly explain)*

---

16. Statute of frauds *(briefly explain)*

---

17. Statute of limitations *(briefly explain)*

---

18. Waiver *(briefly explain)*

---

19. Other *(briefly explain)*

---

**D. Asserting Claims Against the Plaintiff (Counterclaim) or Against Another Defendant (Cross-Claim)**

For either a counterclaim against the plaintiff or a cross-claim against another defendant, state briefly the facts showing why the defendant asserting the counterclaim or cross-claim is entitled to the damages or other relief sought. Do not make legal arguments. State how each opposing party was involved and what each did that caused the defendant harm or violated the defendant's rights, including the dates and places of that involvement or conduct. If more than one counterclaim or cross-claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

1. The defendant has the following claim against the plaintiff *(specify the claim and explain it; include a further statement of jurisdiction, if needed)*:

---

2. The defendant has the following claim against one or more of the other defendants *(specify the claim and explain it; include a further statement of jurisdiction, if needed)*:

---

3. State briefly and precisely what damages or other relief the party asserting a counterclaim or cross-claim asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons that are alleged to entitle the party to actual or punitive money damages.

Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

---

- a. The defendant asserting the counterclaim or cross-claim against *(specify who the claim is against)* \_\_\_\_\_ alleges that the following injury or damages resulted *(specify)*:
- \_\_\_\_\_

- b. The defendant seeks the following damages or other relief *(specify)*:
- \_\_\_\_\_

### III. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this answer: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the answer otherwise complies with the requirements of Rule 11.

#### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: \_\_\_\_\_

Signature of Defendant \_\_\_\_\_

Printed Name of Defendant \_\_\_\_\_

#### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney \_\_\_\_\_

Bar Number \_\_\_\_\_

Name of Law Firm \_\_\_\_\_

Street Address \_\_\_\_\_

State and Zip Code \_\_\_\_\_



Pro Se 3 (Rev. 12/16) The Defendant's Answer to the Complaint

---

Telephone Number

E-mail Address